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17 *Attorneys for Defendant*
18 BITPAY, INC.

19 **UNITED STATES DISTRICT COURT**
20 **CENTRAL DISTRICT OF CALIFORNIA**
21 **WESTERN DIVISION**

22 OX LABS, INC.,

23 *Plaintiff,*

24 vs.

25 BITPAY, INC. and Does 1-10,

26 *Defendants.*

Case No. 2:18-cv-05934-MWF-KS

**DEFENDANT BITPAY, INC.'S
OBJECTIONS TO
PLAINTIFF OX LABS, INC.'S
PROPOSED JURY VERDICT
FORM**

Pursuant to the Court's Order re: Jury Trial (D.I. 22), Defendant BitPay, Inc. provides the following objections to Plaintiff Ox Labs, Inc.'s Proposed Jury Verdict Form.

Ox Labs' Proposed Jury Verdict Form Question No.	BitPay's Objection(s)
1. Did Ox Labs own or have the right to possess 200 Bitcoins?	BitPay objects to this question because there is no evidence in the first place that BitPay possessed the erroneously credited bitcoin.
2. Did BitPay substantially interfere with Ox Labs' 200 Bitcoins by knowingly or intentionally selling them or refusing to return them after Ox Labs demanded their return?	BitPay objects to this question because it did not cause the error, there is no evidence that it knew of the error before it discovered it in 2017 and disclosed to Ox Labs, and there is no evidence that BitPay possessed the bitcoin for purpose of theoretically interfering with a return.
3. Did Ox Labs consent?	BitPay objects to this question as vague, ambiguous, and irrelevant.
4. Was Ox Labs harmed?	BitPay objects to this question as vague and ambiguous, and omitting the facts that BitPay did not possess the bitcoins, the error was by Ox Labs, and there is no evidence, as admitted by Ox Labs, that Ox Labs would still have the bitcoins regardless for purposes of measuring harm.
5. Was BitPay's conduct a substantial factor in causing Ox Labs's harm?	BitPay objects to this question because it omits the fact that the error was by Ox Labs and there is no evidence that BitPay was at fault in any way.
6. Was it reasonably foreseeable to a prudent person, having regard for the accompanying circumstances, that injury or damage beyond the fair market value at the time of the conversion would result from BitPay's acts?	BitPay objects to this question because it omits the fact that the error was by Ox Labs and there is no evidence that BitPay was at fault in any way. There is also no evidence, as admitted by Ox Labs, that Ox Labs would still have the bitcoins regardless for purposes of measuring harm.
7. What special damages should be awarded to Ox Labs?	BitPay objects to the wording of this question, which should merely ask what damages if any should be awarded to Ox Labs.
8. What was the fair market value of Ox Labs' 200 Bitcoins at the time of the conversion?	BitPay objects to the use of the term "conversion", which presumes wrongdoing. BitPay is agreeable to a

Ox Labs' Proposed Jury Verdict Form Question No.	BitPay's Objection(s)
	question of the fair market value of the 200 bitcoins at the time of Ox Labs' error.
9. On what date was Ox Labs harmed?	BitPay objects to the question as vague and ambiguous, and ignoring whether the harm was by BitPay or Ox Labs itself.
10. Prejudgment interest owed at rate of 10% per annum from the date in the answer to question 8:	BitPay objects to the question because the only appropriate question is whether interest should be awarded. The percent quoted is not correct and is a question for the court nonetheless.
11. Would it be unjust for BitPay to retain the 200 Bitcoins that it received from Ox Labs?	BitPay objects to this question because there is no evidence that BitPay received or retained the bitcoins at issue in the first place. Indeed, Ox Labs has admitted that it cannot prove otherwise.
12. Should BitPay return 200 Bitcoins to Ox Labs?	BitPay objects to this question because there is no evidence that BitPay received or retained the bitcoins at issue in the first place. Indeed, Ox Labs has admitted that it cannot prove otherwise.
13. Before July 6, 2015, did Ox Labs discover or know facts that would have caused a reasonable person to suspect BitPay's wrongful acts?	BitPay objects to this question because it is missing part of the standard: (i) whether through reasonable diligence Ox Labs should have discovered its error; or (ii) whether Ox Labs' is excused from discovery of the error caused by its own admitted fault.

Respectfully submitted,

DATED: November 4, 2019

RUSS, AUGUST & KABAT
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By: /s/ Benjamin T. Wang

Attorney for Defendant
BitPay, Inc.

